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Message Text

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ACTION IO-13

INFO OCT-01 AF-08 ARA-06 ISO-00 CIAE-00 DODE-00 PM-04 H-02

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TO AMEMBASSY SANTIAGO
INFO SECSTATE WASHDC 1688
USMISSION USUN NY
AMEMBASSY MEXICO
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C O N F I D E N T I A L GENEVA 6310

E.O. 11652: GDS
TAGS: UNGA EAID XM
SUBJ: MULTILATERAL AFFAIRS: HUMAN RIGHTS PROCEDURES IN THE UN

REF: SANTIAGO 7532 (NOTAL)

1. HAVING JUST COMPLETED A TEN-DAY STINT ON THE WORKING GROUP ON COMMUNICATIONS OF HRC'S SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES, I WOULD LIKE TO COMMENT ON THE INTERESTING OBSERVATIONS MADE BY MY VALUED COLLEAGUE.

2. I AM GENERALLY IN AGREEMENT WITH THE NEED FOR FURTHER REFINEMENT AND ATTENTION TO HRC ACTIVITIES, BUT I THINK THAT SOME OF THE OBSERVATIONS MADE IN PARA 4 REFTEL NEED ELABORATION. FIRST OF ALL, OUR SUB-COMMISSION'S WORKING GROUP ON COMMUNICATIONS IS A FIRST POINT OF CONTACT ON COMPLAINTS, AND THE SUB-COMMISSION OPERATES, AS YOU KNOW, UNDER ECOSOC'S RESOLUTION 1503: "PROCEDURES FOR DEALING WITH COMMUNICATIONS RELATING TO VIOLATIONS ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS."

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3. I WILL NOT ATTEMPT TO REPEAT THE CONTENTS OF

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THIS RESOLUTION BUT WOULD WISH TO REMIND READERS OF THIS MESSAGE THAT IN PARA 1 OF THE REFERENCE RESOLUTION, OUR WORKING GROUP IS "TO CONSIDER ALL COMMUNICATIONS, INCLUDING REPLIES OF GOVERNMENTS THEREON RECEIVED BY THE SECRETARY GENERAL UNDER COUNCIL RESOLUTION 728 F (XXVIII) OF 30 JULY 1959 WITH A VIEW TO BRING TO ATTENTION OF THE SUB-COMMISSION THOSE COMMUNICATIONS, TOGETHER WITH THE REPLIES OF GOVERNMENTS, IF ANY, WHICH APPEAR TO REVEAL A CONSISTENT PATTERN OF GROSS AND RELIABILITY ATTESTED VIOLATIONS OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS WITHIN GHE TERMS OF REFERENCE OF THE SUB-COMMISSION."

4. THE RESOLUTION GOES ON FURTHER UNDER PARA 6 TO INDICATE THE OPTIONS AVAILABLE TO THE HRC, IF IT ACCEPTS RECOMMENDATIONS OF THE SUB-COMMISSION, IT CAN (A) "REQUIRE A THOROUGH STUDY BY THE COMMISSION... AND (B) DETERMINE WHETHER THERE SHOULD BE AN INVESTIGATION BY AN AD HOC COMMITTEE TO BE APPOINTED BY THE COMMISSION WHICH SHALL BE UNDERTAKEN ONLY THROUGH THE EXPRESSED CONSENT OF A STATE CONCERNED AND SHALL BE CONDUCTED IN CONSTANT COOPERATION WITH THAT STATE AND UNDER CONDITIONS DETERMINED BY AGREEMENT WITH IT. IN ANY EVENT, THE INVESTIGATION MAY BE UNDERTAKEN ONLY IF ALL AVAILABLE MEANS AT THE NATIONAL LEVEL HAVE BEEN RESORTED TO AND EXHAUSTED."

5. AMONG OTHER POINTS UNDER PARA 7 OF 1503, "THE COMMITTEE SHALL STRIVE FOR FRIENDLY SOLUTIONS BEFORE, DURING AND EVEN AFTER THE INVESTIGATION."

6. FOLLOWING THE PASSAGE OF THE ECOSOC RESOLUTION AT ITS MAY 27, 1970 MEETING, THE SUB-COMMISSION IN AUGUST 1971 SET UP ITS OWN GUIDELINES FOR FULFILLING THE MANDATE OF 1503. THE SUB-COMMISSION SPOKE WITH OBJECTIVITY ON (A) STANDARDS AND CRITERIA, AND (B) SOURCES OF COMMUNICATIONS, AND NOTED SPECIFICALLY THAT "A COMMUNICATION SHALL BE INADMISSABLE IF IT HAS MANIFESTLY POLITICAL MOTIVATIONS AND ITS SUBJECT IS CONTRARY TO THE PROVISIONS OF THE CHARTER CONFIDENTIAL

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OF THE UNITED NATIONS."

7. ONE OF THE PROBLEMS WE FACED IN THIS RECENTLY CONCLUDED WORKING GROUP SUB-COMMISSION WAS THAT GOVERNMENTS DO NOT REPLY IN A REASONABLE PERIOD, THEREBY FURTHER PREJUDICING SOME OF THE ACCUSATIONS MADE AGAINST THEM. EVERY YEAR THE SUB-COMMISSION INCLUDES THE PLEA IN ITS FINAL REPORT FOR FURTHER

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GOVERNMENTAL COMPLIANCES ON REPLIES. I WOULD LIKE TO NOTE THAT THIS YEAR FOR THE FIRST TIME, THE GOVERNMENT OF CHILE DID GIVE A NUMBER OF REPLIES TO THOSE COMPLAINTS WHICH WE SAW IN THE SUB-COMMISSION'S WG, AND THE GOVERNMENT OF ROMANIA HAS CONSISTENTLY THROUGH THE YEARS BEEN THE MOST RESPONSIVE OF ALL GOVERNMENTS IN REPLIES.

8. COMMENT: PLEASE UNDERSTAND THAT THE OBSERVATIONS MADE ABOVE RELATE TO RESOLUTION 1503 AND THE SUB-COMMISSION'S STANDARDS. I CANNOT SPEAK WITH ANY SENSE OF AUTHORITY ABOUT HOW THE AD HOC COMMITTEE ON CHILE UNDER HRC FUNCTIONS. BUT I BELIEVE THAT THE POINT OF ORIGIN FOR THE ESTABLISHMENT OF THE AD HOC COMMITTEE CAME OUT OF 1503 AND SO THERE DOES EXIST ALREADY A KIND OF CODIFICATION OF CONDUCT ON INVESTIGATIONS. IN THE CASE OF THE CHILIAN AD HOC COMMITTEE, THE COMMITTEE WAS SUPPOSED TO BE COMPOSED OF "INDEPENDENT PERSONS WHOSE CONFIDENCE AND IMPARTIALITY WAS BEYOND QUESTION." THEIR APPOINTMENT WAS ALSO "SUBJECT TO THE CONSENT OF THE GOVERNMENT CONCERNED." MY VIEW THEN IS THAT I LOOK FORWARD TO AN EXPANSION OF HRC ACTIVITIES. I THINK THE EXISTING PROCEDURES ARE ALREADY RESTRICTIVE (AND PROTECTIVE) ENOUGH. CATTO

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